

TENNESSEE BOARD OF CHIROPRACTIC EXAMINERS

DATE: August 31, 2006

TIME: 9:00 A.M.

BOARD MEMBERS

PRESENT: Andrea Selby, D.C., Chair
Barry Kelton, D.C.
Michael Massey, D.C.
Debe Williams, D.C.
Sheila Fitzgerald, Citizen Member

BOARD MEMBERS

ABSENT: Craig Ratcliff, D.C.

STAFF PRESENT: Sherry Owens, Board Administrator
Robbie Bell, Director
Ernest Sykes, Advisory Attorney
Jerry Kosten, Rules Coordinator
Barbara Maxwell, Administrative Director

Dr. Selby, chair, called the meeting to order at 9:00 a.m. All board members were present.

Review Minutes

Upon review of the May 11, 2006 minutes, Dr. Williams made a motion, seconded by Dr. Massey, to approve the minutes as written. The motion carried.

Conflict of Interest Policy Statement

Mr. Sykes reviewed the conflict of interest policy statement with the board asking them to disclose any potential conflicts on the record. Mr. Sykes said a conflict can be personal, financial or professional.

Office of General Counsel Report

Mr. Sykes reviewed the office of general counsel report stating the following rule amendments are in effect:

1. Rule 0260-2-.15 pertaining to costs became effective April 17, 2006.
2. Rule 0260-2-.12, 0260-3.08, 0260-5.12 pertaining to continuing education and x-ray amendments became effective March 21, 2006.
3. Rule 0260-2-.05, 0260-3-.05 and 0260-5-.05 pertaining to criminal background checks became effective May 21, 2006.

Mr. Sykes said Rule 0260-2-.12 pertaining to continuing education will become effective January 1, 2007.

Mr. Sykes said the following rule amendments are at the Attorney General's Office for review:

1. Rule 0260-2-.02, .06 pertaining to clinical acupuncture.
2. Rule 0260-2-.19, .24 pertaining to stays, reconsiderations and CPLLC's.

Mr. Sykes stated OGC currently has six open disciplinary cases pertaining to the Board of Chiropractic Examiners.

Ms. Sykes said he was asked to research venipuncture to determine if simple needle sticks fall under that category or falls under acupuncture. Mr. Sykes said his research concluded that finger sticks falls under venipuncture which is the drawing of venas blood (blood containing oxygen), which is prohibited by chiropractic physicians pursuant to T.C.A. §63-4-101.

Investigative Report

Mr. Sykes reviewed the investigative report stating there are 35 complaints year to date against Chiropractic Examiners. Mr. Sykes said of the 35 complaints, 3 were referred to the screening panel and six were referred to OGC for prosecution.

Mr. Sykes stated there are no complaints against Chiropractic Therapy Assistants or Chiropractic X-ray Technicians.

Disciplinary Report

Mr. Sykes reviewed the disciplinary report stating there are four Chiropractic Examiners and one Chiropractic X-Ray Operator currently being monitored.

Mr. Sykes said following the disciplinary report is a list of all Chiropractic Examiners, Chiropractic Therapy Assistants and Chiropractic X-Ray Operators who have been disciplined by the board since 1980.

Financial Report

Ms. Owens reviewed the financial report stating the board has a cumulative carryover as of June 30, 2006 of \$135,381.99. Ms. Owens said the carryover does not include the move to Metro Center which should be included in the year end report.

Administrative Report

Ms. Owens reviewed the administrative report stating there are currently 937 active Chiropractic Examiners, 88 active Chiropractic X-Ray Operators and 345 Chiropractic Therapy Assistants.

Ms. Owens said the Continuous Quality Improvement Performance (CQI) program indicates the board is under the benchmark of 10 days for the renewal processing time, at 2.08 days and under the benchmark of 100 days for the application processing time of 72.5 days.

Ms. Bell said the new vendor to scan fingerprints for the criminal background checks is “Cogent Systems.” Ms. Bell said there have been a few delays which may make the board’s CQI report go over but the system should be running smoothly in a few weeks.

Dr. Williams asked why the board hasn’t been audited this year.

Ms. Bell said the department tries to audit all boards every three years.

The board said they requested an annual audit when they raised the penalty for not completing continuing education requirements to \$300.

Ms. Bell said she would discuss this with Rick Agee who is the continuing education audit coordinator.

Report from Jerry Kosten, Rules Coordinator

Mr. Kosten discussed the acupuncture rule which allows Chiropractic Examiners to perform acupuncture upon completion of a 250 hour acupuncture course and pass the required examination.

Ms. Bell said Chiropractic Examiners can perform acupuncture upon meeting the requirements as stated in the statute but they cannot hold themselves out to be a certified acupuncturist because certified acupuncturist are licensed under the Medical Board.

Mr. Sykes asked if there are courses that have been accredited that would not be acceptable to the board.

The board recognized Dr. Barnett who stated there are courses in laser acupuncture and kinesiology acupuncture at some chiropractic colleges and suggested that the board stick to mainstream courses.

Mr. Sykes said the statute requires the course to be accredited which affords the board some discretion.

Mr. Kosten stated the Governor issued Executive Order 38 that requires agencies that promulgate/amend rules to consider the economical impact the rule would have on small businesses.

Mr. Kosten said in review of the rule amendment he determined that there may be an economic impact on small businesses as they may have increased expenses due to the educational requirements although they will eventually benefit from the rule because they will not have to refer these services to someone else.

Upon review of the acupuncture rule amendment, Dr. Williams made a motion, seconded by Dr. Kelton, to authorize a rulemaking hearing for the rule amendment. The motion carried.

Regulating Chiropractic Offices

The board discussed the regulation of Chiropractic offices to assure practitioners are not using unlicensed personnel to conduct procedures that require certification.

Mr. Sykes said in his review of the statutes and rules he finds nothing that gives the board the authority to conduct facility inspections.

Ms. Bell suggested making this issue a leading article in the next newsletter and emphasize that practitioner's who employ unlicensed or certified personnel to conduct procedures that require licensure or certification will be fined.

Upon discussion, Dr. Williams made a motion, seconded by Ms. Fitzgerald, to fine practitioners who employ unlicensed or certified personnel to conduct procedures that require licensure or certification a \$1,000 penalty for each non-certified/licensed employee, give the employee 60 days to take the appropriate course and examination and then one year to get the supervised experience. The motion carried.

Discuss Continuing Education

Dr. Selby said Dr. Massey is appointed to review continuing education courses and make recommendation to the board to approve or deny the courses.

Upon review of the continuing education course titled "Basic Life Support Professional Healthcare Provider Course" offered by **ConservCare**, Dr. Williams made a motion, seconded by Ms. Fitzgerald, to allow three (3) hours for the CPR course. Dr. Kelton asked that he be recused from voting as he is part of the program. The motion carried.

Upon review of the continuing education courses titled "Managing a Busy Chiropractic Office", "Basic Rehabilitation Procedures for Chiropractors and CTAs", "Interferential Therapy in a Chiropractic Clinic", and "Clinical Indications for Superficial Heat Therapies" offered by **ConservCare**, Dr. Williams made a motion, seconded by Dr. Kelton, to approve the courses. The motion carried.

Upon review of the continuing education course titled “Latest Technologies Communicating Chiropractic & Clinical Application” offered by **Palmer Institute for Professional Advancement**, Dr. Selby made a motion, seconded by Dr. Kelton, to approve the course. The motion carried.

Upon review of the continuing education courses offered at the **International Esthetics, Cosmetics & Spa Conference** in Orland, Florida, Ms. Fitzgerald made a motion, seconded by Dr. Massey, to deny the course. The motion carried.

Upon review of the continuing education courses offered by **The Injury Specialists** in Atlanta, Georgia, Dr. Massey made a motion, seconded by Dr. Ratcliff, to deny the course. The motion carried.

Upon review of the continuing education course titled “Where Doctors Learn Acupuncture on the Weekends” offered by **AcuPractice Seminars**, Dr. Williams made a motion, seconded by Ms. Fitzgerald to approve the course. The motion carried.

Upon review of the continuing education courses offered by the **Hysterectomy Educational Resources Services** and requested by Dr. David Fair, Dr. Williams made a motion, seconded by Dr. Massey, to deny the course. The motion carried.

Upon review of the continuing education course titled “Risk Management” offered by **Chiropractic Strategies Group, Inc.** and requested by Dr. Michael K. Plambeck, Dr. Massey made a motion, seconded by Dr. Ratcliff, to approve the course. The motion carried.

Upon review of the continuing education course titled “Injuries from Low Impact Collisions” offered by **Daniel P. Cock, D.C.**, Dr. Williams made a motion, seconded by Dr. Kelton, to approve the course. The motion carried.

Review Letters of Request

The board reviewed a letter from Dr. Stephen Nutt asking if Chiropractors may perform spinal manipulation and muscle stretching on anesthetized patients. Dr. Nutt stated he is certified in Manipulation Under Anesthesia (MUA) and wants to use this procedure in a surgical center with a licensed anesthesiologist and assisted by a medical doctor.

Mr. Sykes stated this is not a common chiropractic practice; however, there is nothing in the practice act requiring a patient to be conscious. Mr. Sykes said under Tennessee law chiropractors may perform MUA if carrying out orders from a medical doctor but the determination to place a person under anesthesia is beyond the scope of practice for chiropractic.

Dr. Williams made a motion, seconded by Dr. Massey, to accept Mr. Sykes proposed advisory letter ruling for Dr. Nutt. The motion carried.

The board reviewed a letter from Ms. Phyllis Gregg asking the board to reconsider adding the ACRRT examination to the required exam for Chiropractic X-Ray Technologists rather than replacing the ACRRT exam with the AART exam.

Upon discussion, Dr. Williams made a motion, seconded by Dr. Massey, to keep the AART as the required examination for CXT's. The motion carried.

File Review

Dr. Staten Metsker appeared before the board to discuss the suspension of his Utah Chiropractic license and domestic violence charge in Utah. Dr. Metsker said he was going through a serious divorce which lead to the charges and has taken anger management courses and counseling.

Upon discussion, Dr. Massey made a motion, seconded by Dr. Williams, to accept the application of Dr. Metsker for licensure as a Chiropractic Examiner in Tennessee. Ms. Fitzgerald remained undecided. The motion carried.

Ratify New Licensees

Dr. Williams made a motion, seconded by Dr. Kelton, to ratify the following list of Chiropractic Examiners, Chiropractic X-Ray Technologists and Chiropractic Therapy Assistants for licensure:

Chiropractic Examiners

Latanya T. Bowman
Justin A. Brown
Misty M. Browning
Christian B. Canete
Brandon N. Jenkins
Karen L. Johnson
Katie L. Kanipe-Noe
Jeffery Lamberth
Jared R. Leath
Marc W. Lerner
Kyle M. Longo
Zsolt Muller
Stephanie C. Owens
Joshua J. Renkens
Wendy M. Shimer
Michael D. Smith
Kara C. Timm
Meagan M. Von Holtz

Chiropractic X-Ray Technologists

Janet F. Riley

Chiropractic Therapy Assistants

Noemi Fowler

Mindy R. Lane

Linda S. Leggett

Stephanie P. Lettett

Alecia G. Meador

Stephanie L. Moore

Jeanna Marie Palmer

Deanna D. Peach

Amanda D. Presley

Aundrea Summers

The motion carried.

Schedule 2007 Board Meeting Dates

Dr. Williams made a motion, seconded by Dr. Kelton, to schedule the following dates for the 2007 board meetings:

Thursday - March 1, 2007

Thursday - May 10, 2007

Thursday - August 9, 2007

Thursday - November 29, 2007

The motion carried.

With no more board business to conduct, Dr. Williams made a motion, seconded by Dr. Massey to adjourn at 11:46 a.m. The motion carried.